

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Jean-Louis GUERET

Examiner: D. Walczak

Application No.: Rule 53(d) Continued Prosecution

Application of Appln. No. 09/339,840

Group Art Unit: 3751

Filed: June 25, 1999

Docket No.: 103687

For: AN APPLICATOR FOR A DISPERSIBLE SUBSTANCE, AN ASSEMBLY
INCLUDING SUCH AN APPLICATOR, AND A METHOD

PRELIMINARY AMENDMENT

Director of the U.S. Patent and Trademark Office
Washington, D. C. 20231

Sir:

Prior to initial examination, please amend the above-identified Rule 53(d) Continuing

Application as follows:

IN THE CLAIMS:

Please replace claims 1, 5, 8-10, 12 and 14-16 as follows:

1. (Amended) An applicator for applying a dispersible substance to the skin, the applicator comprising:

a housing opening out in a face of the applicator for putting into contact with the skin to apply the substance;

a single use supply of substance contained within said housing, said supply of substance and said housing being shaped in such a manner that the substance can come directly into contact with the skin during application; and

a porous material suitable for retaining a liquid and for releasing the liquid onto the supply of substance and also onto said face during application of the substance, the substance being suitable for dispersing on contact with the liquid released by the porous material, the retention of the substance in said housing being, at least prior to the first use ensured essentially by a cooperation of said supply of substance with said housing.

5. (Amended) An applicator according to claim 4, wherein said housing has a portion of smaller diameter than the pellet so as to retain the pellet.

8. (Amended) An applicator according to claim 1, wherein said applicator has a further face to be held by the user and wherein said applicator has a wall that is impermeable to the liquid used.

9. (Amended) An applicator according to claim 1, including a grasping element on a further face located at the opposite of said face.

10. (Amended) An applicator according to claim 1, wherein the applicator is hollow and open at one end so that the hand can be engaged therein.

12. (Amended) An applicator according to claim 1, wherein the applicator is releasably secured to a container containing the liquid for causing the substance to disperse on coming into contact with the liquid.

14. (Amended) An applicator according to claim 1, wherein the applicator is secured to a tank containing the liquid which causes the substance to disperse on coming into contact with the liquid, the tank having a deformable wall and being fitted with a valve that opens under the pressure of the liquid when the user presses against said wall.

15. (Amended) An assembly comprising an applicator as defined in claim 1, further including at least one additional supply of substance packaged outside the applicator.

16. (Amended) A method of applying a cosmetic substance to the skin, the method comprising the steps of:

inserting a predetermined quantity of substance for a single use in a housing of an applicator including a porous material capable of absorbing a liquid and of releasing the liquid during application;

impregnating said porous material with said liquid; and

moving the applicator in contact with the skin, said liquid being selected in such a manner that said substance can disperse on coming into contact therewith.

Please add new claims 17-26 as follow:

--17. An applicator for applying a dispersible substance to the skin, the applicator comprising:

an off-center housing opening out in a face of the applicator to be put into contact with the skin;

a supply of substance contained within said housing, said supply of substance and said housing being shaped in such a manner that the substance can come directly into contact with the skin during application; and

a porous material suitable for retaining a liquid and for releasing the liquid onto the supply of substance and also onto said face during application of the substance, the substance being suitable for dispersing on contact with the liquid released by the porous material.--

--18. An applicator for applying a dispersible substance to the skin, the applicator comprising:

a housing opening out in a face of the applicator to be put into contact with the skin, said face being covered by a flocking;

a supply of substance contained within said housing, said supply of substance and said housing being shaped in such a manner that the substance can come directly into contact with the skin during application; and

a porous material suitable for retaining a liquid and for releasing the liquid onto the supply of substance and also onto said face during application of the substance, the substance being suitable for dispersing on contact with the liquid released by the porous material.--

--19. An applicator for applying a dispersible substance to the skin, the applicator comprising:

a housing opening out in a face of the applicator to be put into contact with the skin;

a supply of substance contained within said housing, said supply of substance and said housing being shaped in such a manner that the substance can come directly into contact with the skin during application; and

a porous material suitable for retaining a liquid and for releasing the liquid onto the supply of substance and also onto said face during application of the substance, the substance being suitable for dispersing on contact with the liquid released by the porous material, wherein the volume of the housing is less than the volume of said porous material.--

--20. An applicator for applying a dispersible substance to the skin, the applicator comprising:

a housing opening out in a face of the applicator to be put into contact with the skin;

a supply of substance contained within said housing, said supply of substance and said housing being shaped in such a manner that the substance can come directly into contact with the skin during application; and

a porous material suitable for retaining a liquid and for releasing the liquid onto the supply of substance and also onto said face during application of the substance, the substance being suitable for dispersing on contact with the liquid released by the porous material, wherein said housing has an opening covered with a perforated element provided with at least one aperture to dispense said substance.--

--21. An applicator according to claim 20, wherein said perforated element extends over part of said porous material only.--

--22. An applicator for applying a dispersible substance to the skin, the applicator comprising:

a housing opening out in a face of the applicator to be put into contact with the skin;

a supply of substance contained within said housing, said supply of substance and said housing being shaped in such a manner that the substance can come directly into contact with the skin during application; and

a porous material suitable for retaining a liquid and for releasing the liquid onto the supply of substance and also onto said face during application of the substance, the substance being suitable for dispersing on contact with the liquid released by the porous material, wherein said housing opens out on a further face through an opening, said opening being closed by a film fixed on said porous material.--

--23. An applicator for applying a dispersible substance to the skin, the applicator comprising:

a housing opening out in a face of the applicator to be put into contact with the skin;

a supply of substance contained within said housing, said supply of substance and said housing being shaped in such a manner that the substance can come directly into contact with the skin during application; and

a porous material suitable for retaining a liquid and for releasing the liquid onto the supply of substance and also onto said face during application of the substance, the substance being suitable for dispersing on contact with the liquid released by the porous material, wherein said porous material comprises two adjacent layers.--

--24. An applicator for applying a dispersible substance to the skin, the applicator comprising:

a housing opening out in a face of the applicator to be put into contact with the skin;

a supply of substance contained within said housing, said supply of substance and said housing being shaped in such a manner that the substance can come directly into contact with the skin during application; and

a porous material suitable for retaining a liquid and for releasing the liquid onto the supply of substance and also onto said face during application of the substance, the substance being suitable for dispersing on contact with the liquid released by the porous material, wherein said applicator is sufficiently thin to enable the user to grasp said face and an opposite face.--

--25. An applicator for applying a dispersible substance to the skin, the applicator comprising:

- a housing opening out in a face of the applicator to be put into contact with the skin;
- a supply of substance contained within said housing, said supply of substance and said housing being shaped in such a manner that the substance can come directly into contact with the skin during application;
- a porous material suitable for retaining a liquid and for releasing the liquid onto the supply of substance and also onto said face during application of the substance, the substance being suitable for dispersing on contact with the liquid released by the porous material; and
- said applicator comprising an impermeable layer.--

--26. The applicator according to claim 25, wherein said impermeable layer defines a face of the applicator opposite to the face for putting in contact with the skin.--

REMARKS

Claims 1-26 are pending herein. By this Preliminary Amendment, claims 1, 5, 8-10, 12 and 14-16 are amended and claims 17-26 are added. Reconsideration and allowance are respectfully requested in view of the above amendments and the following remarks.

The attached Appendix includes marked-up copies of each rewritten claim (37 C.F.R. 1.121(c)(ii)).

The December 1 Office Action withdraws claims 9-14 from consideration; objects to the specification; rejects claims 1-16 under 35 U.S.C. §112, second paragraph; rejects claims 1, 3-6 and 16 under 35 U.S.C. §102(b) over Avallone; and rejects claims 1-7, 15 and 16 under 35 U.S.C. §103(a) over Avallone.

Regarding the objection to the specification, claim 8, which depends from claim 1, has been amended to recite "said applicator has a further face to be held by the user". Claim 1 recites "a housing opening out in a face of the applicator for putting into contact with the skin to apply the substance". For example, the embodiment of the applicator shown in Fig. 5 includes a face 14 applied to the skin and an opposite face that can be held by a user. See page 8, lines 22-25 of the specification. Accordingly, the subject matter of claim 8 is adequately described in the specification. Applicant respectfully requests that this objection be withdrawn.

Regarding the rejection under 35 U.S.C. §112, second paragraph, the term "single use" means that if any substance remains at the end of a use of the applicator in a dispersed state in the housing of the applicator, at the next use, a new supply of a substance is placed in the applicator. In other words, the same supply of substance is not re-used for another application at a different time. Rather, a supply of substance is either used entirely in the same single application, or it is partially used and then discarded and replaced by a new (different) supply of product at the next application.

The amendments to claim 8 overcome the rejection stated in the Office Action.

Applicant respectfully submits that claims 1-16 satisfy the requirements of 35 U.S.C. §112, second paragraph. Reconsideration and withdrawal of the rejections are respectfully requested.

Finally, Avallone fails to anticipate claims 1, 3-6 and 16, or to have rendered obvious claims 1-7, 15 and 16. Claims 1-7, 15 and 16 are therefore patentable over Avallone. Reconsideration and withdrawal of the rejections are respectfully requested.

Furthermore, withdrawn claims 9-14 depend from claim 1. Accordingly, because claims 9-14 each include all of the limitations of claim 1, which is generic, once claim 1 is

determined to be allowable, claims 9-14 should be rejoined and considered in this application.
See MPEP 809.02(c).

For the foregoing reasons, Applicant respectfully submits that the application is in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

Should the Examiner believe that anything further is necessary in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Respectfully submitted,

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WPB:EAB/ldg

Attachment:
Appendix

Date: April 25, 2001

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DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461
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APPENDIX

Changes to Claims:

The following is a marked-up version of the amended claim:

1. (Amended) An applicator for applying a dispersible substance to the skin, the applicator comprising:

a housing opening out in a ~~faet~~ face of the applicator for putting into contact with the skin to apply the substance;

a single use supply of substance contained within said housing, said supply of substance and said housing being shaped in such a manner that the substance can come directly into contact with the skin during application; and

a porous material suitable for retaining a liquid and for ~~giving~~ releasing the liquid ~~back directly~~ onto the supply of substance and also onto ~~the said face of the applicator that is brought into contact with the skin during application of the substance, the substance being suitable for dispersing on contact with the liquid released by the porous material, the retention of the substance in said housing being, at least prior to the first use ensured essentially by a cooperation of said supply of substance with said housing.~~

5. (Amended) An applicator according to claim 4, ~~including wherein said housing has~~ a portion of smaller diameter than the pellet so as to retain the pellet.

8. (Amended) An applicator according to claim 1, wherein said applicator has a further face for applying the substance and has a face to be held by the user; and wherein said applicator has a wall that is impermeable to the liquid used ~~and that is located between the face for applying the substance and the face held by the user.~~

9. (Amended) An applicator according to claim 1, including ~~an a grasping~~
~~element for grasping on its~~ on a further face located at the opposite from its of said face that is
~~for applying the substance.~~

10. (Amended) An applicator according to claim 1, wherein the applicator ~~being~~
is hollow and open at one end so that the hand can be engaged therein.

12. (Amended) An applicator according to claim 1, wherein the applicator ~~being~~
is releasably secured to a container containing the liquid for causing the substance to disperse
on coming into contact ~~therewith~~ with the liquid.

14. (Amended) An applicator according to claim 1, wherein the applicator ~~being is~~
secured to a tank containing the liquid which causes the substance to disperse on coming into
contact ~~therewith~~ with the liquid, the tank having a deformable wall and being fitted with a
valve that opens under the pressure of the liquid when the user presses against said wall.

15. (Amended) An assembly comprising an applicator as defined in claim 1, ~~and~~
further including at least one additional supply of substance packaged outside the applicator.

16. (Amended) A method of applying a cosmetic substance to the skin, the method
comprising the steps of:

inserting a predetermined quantity of substance for a single use in a housing of
an applicator including a porous material capable of absorbing a liquid and of giving-releasing
the liquid ~~back~~ during application;

soaking-impregnating said porous material ~~in~~ with said liquid; and

moving the applicator in contact with the skin, said liquid being selected in
such a manner that said substance can disperse on coming into contact therewith.